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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 CARRIE FERRARA CLARK,
12 Plaintiff,
13 vs.
14 CITY OF TUCSON,
15 Defendant.

Case No. 4:14-CV-02543-TUC-CKJ

**STIPULATION REGARDING
EVIDENTIARY MATTERS**

Hon. Cindy K. Jorgenson

16 The parties having conferred pursuant to L.R.Civ. 7.2(1), stipulate to the following
17 evidentiary matters. Plaintiff Carrie Ferrara Clark and defendant City of Tucson, and its
18 counsel will not refer to, comment upon, interrogate any witness concerning, or introduce
19 any testimony, evidence or argument regarding the following matters at trial:

20 1. Plaintiff's Initial Performance at the Fire Academy

21 Plaintiff first attempted to join Tucson Fire Department (TFD) in 2005. She did not,
22 however, graduate from the academy. She reapplied in 2007 and passed the academy in
23 2007. The parties will not reference her performance during her first attempt at graduating
24 from the fire academy.

25 2. Plaintiff's Cosmetic Surgery

26 The parties agree not to reference Plaintiff's cosmetic surgery (breast augmentation)
that she had as a young woman.

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1 3. Plaintiff's Involvement in Prior Lawsuits

2 During discovery, Defendant disclosed documents indicating that Plaintiff has been
3 named as a party in several lawsuits. The parties have agreed not to reference these prior
4 lawsuits.

5 4. Roosevelt Lake Incident

6 The parties have agreed not to introduce any evidence of an incident between
7 Plaintiff and her husband Gordon Clark, which had been characterized as a "domestic
8 altercation," at Roosevelt Lake. This issue was briefed to the Court during litigation over
9 marital communication privilege issues. *See* Docs. 66, 69, 70.

10 5. Reassigning/Transferring Gordon Clark to Operations and his Battalion Chief
11 Probationary Period

12 Plaintiff's Third Amended Complaint alleged that Defendant retaliated against her
13 when it transferred Gordon Clark out of Fire Prevention and later determined that Gordon
14 Clark had failed to pass his probationary period as a Battalion Chief. Doc. 87 p. 21. Both of
15 these matters were reviewed and resolved by this Court on summary judgment. Doc. 131 p.
16 18-21. The parties agree not to offer any evidence or make any reference to these matters.

17 6. ATF Contact with Gordon Clark

18 On or about November 22, 2016, Bureau of Alcohol, Tobacco, Firearms and
19 Explosives (ATF) Special Agent AJ Gibes met with Gordon Clark at work for an informal,
20 voluntary interview regarding an ATF investigation. Defendant had also raised ATF's
21 meeting with Gordon Clark as part of its justification for determining that he had not passed
22 his Battalion Chief probationary period. The parties have agreed not to reference ATF's
23 contact with Gordon Clark.

24 7. Damages Caps

25 Neither the court nor the parties should be informing the jury, or even mentioning,
26 any caps on damages. *See In re Exxon Valdez*, 229 F.3d 790, 799 (9th Cir. 2000).

 8. Hostile Work Environment

 The parties agree that Plaintiff shall not reference or make any claims that a hostile
work environment existed in Fire Prevention while she worked there. Doc. 131 p. 22-24.

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9. References to Overtime

The parties agree that there shall be no reference that Plaintiff had to work additional hours which would have been construed as overtime. Doc. 131 p. 11.

10. Overtime and Trades

The parties agree not to make any claim that Plaintiff lost overtime or was denied shift trades while she was assigned to Station 6. Doc. 131 p. 15-16.

11. Noreen Carver, R.N.

Plaintiff withdraws Noreen Carver, R.N., as a witness in this case.

DATED this 7th day of January, 2019.

MICHAEL G. RANKIN
City Attorney

s/ Michelle Saavedra
Michelle Saavedra
Principal Assistant City Attorney

JACOBSON LAW FIRM

s/ Jeffrey H. Jacobson
Jeffrey H. Jacobson
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2019, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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